

Office of the State Public Defender Human Resource Policies

Subject: Employee Conduct	Policy No.: 516
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1.0 POLICY

- 1.1 The purpose of this policy is to establish and clarify Office of the State Public Defender (OPD) guidelines related to employee standards of conduct in the workplace and outside the workplace when the conduct impacts the employee's ability to perform the essential functions of the job and/or creates an appearance of impropriety that violates public trust and conflicts with OPD's overall mission.
- 1.2 OPD is committed to maintaining a safe, respectful, and productive environment within the workplace to maximize services to the public. It is the policy of OPD and the State of Montana that failing to follow this policy's workplace standards is prohibited.
- 1.3 This policy applies to all OPD employees and it will be followed unless it conflicts with negotiated labor contracts, which will take precedence to the applicable extent.
- 1.4 All employees are responsible for adhering to the employee standards of conduct and performance outlined in this policy. Employees should be familiar with all statutory obligations relating to employment.
- 1.5 Supervisors will ensure employees under their supervision comply with this policy.

2.0 EMPLOYEE STANDARDS OF CONDUCT AND PERFORMANCE

An employee may be subject to discipline up to possible termination of employment for misconduct which may include, but is not limited to, the following examples:

- 2.1 **Neglect or Failure to Properly Perform Essential Job Functions and Responsibilities.** Employees are expected to produce work that consistently meets or exceeds expectations and maintain the qualifications, certification, licensure and/or training required of the job.
- 2.2 **Excessive Absenteeism or Tardiness.** Employees are expected to be reliable and dependable; observe established work hours and scheduled appointments; utilize leave and related employee benefits in the manner for which intended; obtain permission prior to being off work, and schedule leave in a manner that minimizes work disruption.
- 2.3 **Abuse, Mistreatment of Any Client.** Employees are expected to follow State policies regarding unfair treatment, inappropriate contact, or mistreatment of clients.

- 2.4 Willful, Intended or Threatened Injury to Another Person; Disrespect, Aggressive or Abusive Behavior.** Employees shall maintain a courteous, respectful and otherwise acceptable working relationship with coworkers, peers, supervisors, and the general public. Employees shall resolve work-related issues and disputes in a professional manner and through established business practices.
- 2.5 Insubordination.** Employees are expected to follow verbal or written instructions of their direct supervisor and of persons with duly delegated authority. Employees should resolve any differences with management in a constructive manner.
- 2.6 Willful Violation of Laws, Contracts, Policies, Directives or Other OPD Regulations.** Employees shall comply with all State and OPD policies and procedures, laws, and regulations that include but are not limited to:
- 2.6.1** Abiding by criminal and civil laws and OPD policies that include but are not limited to: Drug Free Workplace; Nondiscrimination; Sexual Harassment; Internet, Intranet and Email Acceptable Use; and Workplace Threats and Violence.
 - 2.6.2** Following safe work procedures to ensure a safe and healthy work environment.
 - 2.6.3** Reporting circumstances or concerns that may affect safety and satisfactory work performance to their supervisor, including any inappropriate (fraudulent, illegal, unethical) activities of other employees.
 - 2.6.4** Following required dress codes.
 - 2.6.5** Following established directives and/or policies related to smoking on OPD premises.
- 2.7 Sleeping on the Job.** Employees are expected to provide the level of effort necessary to perform the essential functions of the job and to stay focused on job-related activities during work hours.
- 2.8 Breach of Confidential Information.** Employees are required to maintain confidentiality according to Federal and State confidentiality laws and policies, including the HIPAA privacy rule and OPD HIPAA policies. A breach of confidentiality may result in employee suspension without pay and/or termination of employment, dependent upon the number of prior infractions.
- 2.9 Inappropriate Conduct in Violation of Public Trust.** Employees shall conduct themselves, on and off the job, in a manner that will not violate public trust. Employees shall not commit any act or omission that violates public trust. Examples of employee conduct associated with public trust include, but are not limited to, the following:
- 2.9.1** Employees shall maintain high standards of honesty, integrity and impartiality. Employees shall place the interests of the public ahead of personal interests. Employees shall not use, or attempt to use, their official position for personal gain or confidential information for personal advantage.
 - 2.9.2** Employees shall refrain from conduct which, though not illegal or generally inappropriate for a state employee, is inappropriate for a person in the employee's particular position.

- 2.9.3 Employees shall protect state property from loss or abuse and shall use state time, property, equipment, facilities, and personnel only in a manner that benefits OPD. Unauthorized use of state time, equipment, or facilities for private business or personal use is prohibited.
- 2.9.4 Employees shall not loan, duplicate, or inappropriately use OPD keys or security passes.
- 2.9.5 Employees shall not generate abusive, harassing, disrespectful, or inappropriate notes, emails, phone calls, or text messages that breach public trust and conflict with the overall mission of OPD.

2.10 Misconduct—willful or wanton disregard of the rights of the employer. Misconduct includes but is not limited to:

- 2.10.1 Dishonesty related to employment.
- 2.10.2 Deliberate falsification of company records such as timesheets, client records, travel expenses, omission of pertinent data, or giving false testimony.
- 2.10.3 Theft, deliberate deception, or lying.
- 2.10.4 False statements made as part of a job application process, such as deliberate falsification of the individual's criminal history, work record, education, licensure, or achievement.
- 2.10.5 Willful damage, unlawful use, or neglect of OPD property or of a service population.
- 2.10.6 Carelessness or negligence that causes or is likely to cause serious bodily harm to an employee, client or customer.
- 2.10.7 Deliberate violation or disregard of established employer standards or of standards of behavior that the employer has the right to expect of an employee.

2.11 Misuse of Mood or Mind-Altering Substances. Being under the influence and/or impaired by alcohol and/or illegal drugs or impaired by prescription medication on OPD premises or while an employee is performing job duties is prohibited. Employee's misuse of alcohol, prescription medications, or the use of illegal drugs that adversely impacts OPD operations or violates public trust will not be tolerated.

2.12 Conviction of Any Felony or Misdemeanor. An employee's conviction of any felony or misdemeanor, including a plea of nolo contendere (no contest) that adversely impacts OPD operations or violates public trust must be reported to his or her supervisor.

2.13 Inappropriate Communications. Employees are prohibited from viewing, downloading, and/or transmitting electronically, or viewing hard copies, of inappropriate images or pornography using OPD equipment and/or state time.

3.0 DEFINITIONS

- 3.1 **Employee:** A person hired to work in any position within OPD. It includes, but is not limited to, permanent, temporary, short-term, and student interns.
- 3.2 **Mission Statement:** The mission of OPD is to provide effective professional legal services with equal access to quality client-centered representation.

- 3.3 Off-the-Job Conduct:** An employee's off-duty, off-worksites premises behavior and actions.
- 3.4 On-the-Job Conduct:** Patterns of actions and interactions of employees on OPD premises or on OPD time that directly or indirectly affect OPD's effectiveness; or an employee's response to any assigned duty, responsibility, expectation, obligation or behavior required by the employer or the position.
- 3.5 Public Trust:** Holding public employment is a public trust created by the confidence the public places in the integrity of public employees. Public trust is an assurance that public employees will carry out their assigned job duties for the benefit of the people of the state. A violation of public trust includes conduct in the workplace and outside the workplace that negatively impacts the employee's ability to perform the essential functions of the job, is inappropriate, and/or creates the appearance of impropriety.

4.0 CROSS-REFERENCE GUIDE

The following laws, rules or policies may contain provisions that might to this policy. The list should not be considered exhaustive; other policies may apply.

4.1 Federal and State Laws

Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA)

§ 2-2-104 MCA, Rules of conduct for public officers, legislators, and public employees.

§ 2-2-121 MCA, Rules of conduct for public officers and public employees.

§ 39-51-201(19)(a), MCA, Definition of employee misconduct

4.2 State Policies (Montana Operations Manual)

MOM Discipline Policy

Administrative Rules of the State of Montana (ARM) 2.21.6505 – 2.21.6515

4.3 OPD Policies

OPD Confidentiality Agreement, Policy 535

5.0 CLOSING

This policy shall be followed unless it conflicts with negotiated labor contracts or specific statutes, which shall take precedence to the extent applicable

Questions regarding this policy can be directed to your supervisor or the Human Resource Officer at:

Office of the State Public Defender
Central Services Division
44 West Park
Butte, MT 59701
Phone (406) 496-6080

ATTACHMENT A

ACKNOWLEDGEMENT FORM

My signature below indicates that I have read and understand the Employee Conduct Policy.

I know that I may direct any and all questions about the policy to my supervisor or the Human Resource Officer before signing or at any time in the future.

PRINT NAME: _____

SIGNATURE: _____

DATED: _____

This form must be signed and returned to:
Office of the State Public Defender
Human Resource Office
44 West Park
Butte, MT 59701